

Remarks

The Examiner objected to the specification and rejected claims 19-24, 26-31, and 33-38 under 35 USC §112, as the specification, as originally filed, does not provide support for the invention as now claimed. Specifically, the Examiner asserts that the claimed definition of a cycle as comprising "a first period when the alert is generated followed by a second period when the alert is not generated," is not supported by the specification as originally filed.

The Applicants respectfully submit that the specification as originally filed provides support for the claimed definition of a cycle as comprising "a first period when the alert is generated followed by a second period when the alert is not generated." There are numerous references to a "cycle" and its definition in the specification including: FIGs. 2-1 and 2-2; page 7, lines 10-26; page 9, lines 20-34; page 10, lines 1-35; page 11, lines 1-7. In particular, alert cycles are periodic as opposed to continuous as noted on page 7, lines 10-12. As noted in Webster's Ninth New Collegiate Dictionary a "cycle" is defined as "1: an interval of time during which a sequence of a recurring succession of events or phenomena is completed 2: a: a course or series of events or operations that recur regularly and usu. lead back to the starting point b: one complete performance of a vibration, electric oscillation, current alternation or other periodic process..." and "periodic" is defined as: "1: occurring or recurring at regular intervals 2 a: consisting of or containing a series of repeated stages, processes or digits: cyclic (decimals) (a vibration) b: being a function any value of which recurs at regular intervals ...". Therefore, the Applicants submit that no new matter has been entered.

Examiner has provisionally rejected claims 19, 26, and 33 under the judicially created doctrine of non-obviousness-type double patenting as being unpatentable over claims 1, 18, 19, and 20 of U.S. Application No. 220949 and claims 19, 24, 29, and 34 of U.S. Application No. 220856.

Examiner has provisionally rejected claims 21-25, 28-32, and 35-39 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 18, 19, and 20 of U.S. Application No. 220949 and claims 19, 24, 29, and 34 of U.S. Application No. 220856 in view of Breeden.

The Applicant reserves the right to file a terminal disclaimer to overcome the Examiner's rejection on the basis of allowed claims in the present case.

Claims 19, 26 and 33 were amended to provide proper antecedent basis for their respective independent claims.

A petition for a two month extension of time is included herewith.

The Applicant submits that the claims are now in a condition for allowance and reconsideration of allowance is hereby respectfully requested.

Respectfully submitted,

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